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**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN THE MATTER OF :
 :
 : **CHAPTER 7**
LUZ SALAZAR, : **CASE NO: 08-23565 (RDD)**
DEBTOR :
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**MOTION TO SURRENDER REAL PROPERTY AND TO QUIT-CLAIM PROPERTY
TO THE MORTGAGE HOLDER**

COME NOW the above-named debtor, MS. LUZ SALAZAR, by and through her attorney of record, and respectfully move the Court pursuant to 11 U.S.C. §544, Rule 9013 of the Rules of Bankruptcy Procedure, and Rule 9074-1(c) of the Local Bankruptcy Rules for the entry of an order approving this motion to surrender real property and to quit-claim property to the mortgage servicer and in support hereof alleges and says that:

1. This case was commenced by the filing of a petition with the Clerk of this Court on October 27, 2008.
2. The 341(a) meeting of creditors was held in White Plains, New York on December 5, 2008.
3. The Chapter 7 Petition stated the debtor's intention to surrender the property known as 195 Fisher Avenue, White Plains, NY 10606.
4. The debtor has determined that due to continued substantial financial hardship, circumstances of unemployment and lack of income, she is not in a financial position to retain this collateral any longer and therefore desires to surrender the same, forthwith, to the secured creditor known as Wells Fargo Financial National Bank.
5. In support hereof, the debtor has attached hereto as "Exhibit A" and incorporate herein by this reference Schedules I, J and Form 8 "Chapter 7 Debtor's Statement of Intention" from her Bankruptcy Petition as filed with the court.
6. On January 21, 2009 a Motion for Relief from Stay was filed on behalf of "Wells Fargo Bank, NA as Trustee" for the purpose of proceeding with foreclosure of the subject property and ultimately taking title to said property. Said motion was unopposed and

subsequently denied as moot by the Hon. Judge A. Hardin in an Order dated February 25, 2009. The creditor was free to pursue foreclosure at anytime thereafter.

7. That the continued exposure of expense and actual incurred post-petition expenses related to maintaining the property are causing additional hardship to the financial detriment of the debtor and debtor's estate. Specifically, the Debtor has been served with Notice of Violation dated July 8, 2009 by the City of White Plains for the illegal parking of vehicles on and about the property. A copy of the notice is attached hereto as "Exhibit B."

8. Additionally the Debtor has received two water bills from the City of White Plains dated June 8, 2009 in the amount of 123.49 and July 29, 2009 in the amount of \$128.93. Debtor has paid for both water bills as noted thereon and attached hereto as Exhibit "C"

9. That the assigned Chapter 7 Trustee abandoned his interest in the property on January 21, 2009.

10. That the property is believed to have negative equity.

11. That the prolonging of the surrender of the property to the secured creditor is causing and will continue to cause additional damages and financial loss to the debtor and debtor's estate.

12. That the secured creditor has expressed clear interest and intention of acquiring title to the subject property and has taken overt measures to accomplish the same as aforesaid.

13. That the secured creditor continues to exercise exclusive full control over the subject property as evidenced by signage displayed at the front of the property as of the date of this motion as seen in the photograph attached hereto as Exhibit "D"

14. That on September 28, 2009 the undersigned as attorney for the debtor did place a call to the law firm of Rosicki & Rosicki to inquire about forwarding future bills and notices and to request an update regarding the status of the property and foreclosure.

15. That despite making such reasonable inquiry, the undersigned received conflicting reports as to the status of the foreclosure of the subject property and received no information as to the appropriate address for the creditor. In fact, the undersigned was told by Attorney Barbara Dunleavy of said firm that there is "no address for Wells Fargo Bank NA as Trustee...it is a web-based company."

16. The debtor is therefore moving the court pursuant to Section 544 of Title 11 of the Bankruptcy Code to abandon any interest she may have in the property and transfer the same to the secured creditor named in her petition as the secured creditor as discussed herein and to have such creditor assume any and all risk of loss associated with, related to, or arising out of the said property. The debtor has attached a proposed "Quitclaim Deed" hereto as Exhibit "E" and respectfully moves the court to approve and enforce acceptance of the same. The debtor is

simply no longer in a financial position to maintain or insure the property and such obligations would be extremely burdensome to the debtor and the debtor's estate.

17. The debtor is also moving the Court for such other and additional relief as to the court may seem just and proper.

WHEREFORE, the debtor respectfully prays of the Court as follows:

A. That the debtor's subject property be surrendered forthwith as provided for in the debtor's petition and body of this motion;

B. That the debtor be permitted to execute and deliver the attached quit-claim deed to the secured creditor;

C. That the named secured creditor be so required to accept deliverance and record said quitclaim deed for the subject property on the appropriate register of land records; and

D. That the debtor be reimbursed by the creditor for the sums paid for the water usage during the time the creditor has asserted control over the property, as aforesaid, totaling \$252.42 ; and to have such other and further relief as to the Court may seem just and proper.

This the 28th day of September, 2009.

/S/ Linda M. Tirelli
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